TTAB

Ex. Mail No. EL984673167US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Prairie Island Indian Community, a federally recognized Indian Tribe, Plaintiff, v. Treasure Island Corp., Defendant.	Opposition Nos. 91115866 and 91157981 Cancellation Nos. 92028126; 92028127; 92028130; 92028133; 92028145; 92028155; 92028171; 92028174; 92028199; 92028248; 92028280; 92028294; 92028314; 92028319; 92028325; 92028342; and 92028379 (as consolidated)

Note: the enclosed materials are to be filed in the parent case relevant to these proceedings, namely Opposition No. 91115866

LETTER

TRADEMARK TRIAL AND APPEAL BOARD
COMMISSIONER FOR TRADEMARKS
P.O. BOX 1451
ALEXANDRIA VA 22313-1451

Dear Trademark Trial and Appeal Board:

Enclosed herewith are the following documents:

1. PETITIONER'S/OPPOSER'S REPLY BRIEF IN SUPPORT OF ITS MOTION FOR FOR SUMMARY JUDGMENT;

2. EXHIBITS A-C;

3. CERTIFICATE OF SERVICE ON RICHARD COSTELLO; and

4. EXPRESS MAIL CERTIFICATE UNDER NO. EV241979755US.

PLEASE NOTE THAT THIS DOCUMENT SHOULD BE FILED IN THE PARENT CASE RELEVANT TO THESE CONSOLIDATED PROCEEDINGS, NAMELY OPPOSITION NO. 91115866.

The Commissioner is authorized to charge any additional fees or refund any overpayment which may be required by this paper to Deposit Account No. 50-0789.

Of course, contact the undersigned with any questions you may have regarding the above.

Respectfully submitted,

HAUGEN LAW FIRM PLLP

Date: May 5, 2005

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Attorney(s) for Petitioner/Opposer
Prairie Island Indian Community,
a Federally Recognized Indian Tribe

UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

Prairie Island Indian Community, a federally recognized Indian Tribe, Plaintiff, v. Treasure Island Corp., Defendant.	Opposition Nos. 91115866 and 91157981 Cancellation Nos. 92028126; 92028127; 92028130; 92028133; 92028145; 92028155; 92028171; 92028174; 92028199; 92028248; 92028280; 92028294; 92028314; 92028319; 92028325; 92028342; and 92028379 (as consolidated)

TRADEMARK TRIAL AND APPEAL BOARD
COMMISSIONER FOR TRADEMARKS
P.O. BOX 1451
ALEXANDRIA VA 22313-1451

PETITIONER'S/OPPOSER'S REPLY BRIEF IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT

I. INTRODUCTION

This reply brief is submitted in connection with Prairie Island Indian Community's (hereinafter "Plaintiff") Motion for Summary Judgment relevant to U.S. Reg. No. 2,010,396 on the mark TREASURE ISLAND AT THE MIRAGE (hereinafter "the '396 Registration"). Plaintiff filed its Motion for Summary Judgment on March 11, 2005. Treasure Island Corp. (hereinafter "Defendant") served its response on April 15, 2005. This reply brief will discuss only those issues raised by Defendant in its opposition, and consideration of this document by this Board is respectfully requested.

II. DISCUSSION

As an initial matter, it is noted that Defendant does not, nor could it, seriously contend that the mark TREASURE ISLAND AT THE MIRAGE is legally distinct from Plaintiff's

TREASURE ISLAND mark. As stated by Defendant at page 12 of its brief, the addition of the words AT THE MIRAGE to the mark TREASURE ISLAND "does not change the nature of the TREASURE ISLAND mark...".

Additionally, it is conceded by TIC that the services at issue relevant to both Plaintiff and Defendant's marks are identical: casino services. As this matter now stands, Defendant concedes that the marks are indeed confusingly similar and that identical services are at issue.

A. Defendant's "Tacking" Attempt

Defendant attempts to "tack" an alleged use of TREASURE ISLAND on slot machines in 1989 onto its present registration. This attempt to tack must be rejected out of hand by this Board for the reasons set forth below.

First off, TIC attempts to deceive this Board into believing that TIC actually did anything with the TREASURE ISLAND mark in the 1989 time frame other than to have it affixed to slot machines. At page 3 of its brief, Defendant states that "[t]he TREASURE ISLAND mark was used for casino-related services such as slot promotions and in retail services by the Mirage and the Golden Nugget. See Deposition of Mark Russell ('Russell Depo.'), Vol. II, p 91. . . ". In fact, what Mr. Russell actually stated was this:

> Q. How many slot tournaments took place under (the name TREASURE ISLAND)?
>
> A. I don't know.
>
> Q. Any?
>
> A. I don't know.

See Defendant's Exhibit 2 at pg. 91.

He *never* mentions anything about "retail services".

Also during his deposition Mr. Russell had this to say about the TREASURE ISLAND slot machines:

> And then, possibly, depending on the success or not of the game and the response we got from our customers, we could then go into, you know, tangential items. I don't know if we ever did that with TREASURE ISLAND or not, but t-shirts and knickknacks, things of that nature.

Mr. Russell goes on to say:

> Well, to the best of my knowledge, that's what we did. We developed designs for what's called belly glass and other things to dress up the slot machines so that they would be identified -- or they would be different from other slot images. And they were, in fact, placed on the gaming floor at the Golden Nugget, and they were used at the Golden Nugget.
>
> Beyond that, I really don't know the extent of, you know, the use of the name or the use of marketing efforts or the use of any developments of any subsidiary merchandising.

See Exhibit A, pages 25-26 of the Deposition Transcript from Mark Russell Deposition of June 23, 1999.

No matter how hard it tries to convince this Board to the contrary, the *only* use of the mark TREASURE ISLAND by Defendant or its predecessor in interest before Plaintiff's January 1990 use is on and in connection with slot machines. There is *no* indication in the record whatsoever of use of the mark in connection with "casino services" of any sort whatsoever. As the Board can see, *all* of Defendant's documentation relevant to use of the TREASURE ISLAND mark in the 1989 time frame relates *only* to slot machines. It is respectfully contended, and will be discussed in more detail below, that "slot machines" are not "casino services".

With the above in mind, Plaintiff now notes the file history relevant to the application which resulted in the TREASURE ISLAND AT THE MIRAGE registration. On March 24, 1994, Defendant submitted a response to an Office Action (Exhibit B) which had been lodged by the Trademark Office on January 26, 1994. That Office Action cited a pending application on

the mark TREASURE ISLAND as used in connection with "coin-operated amusement machines and parts therefore".

In the Exhibit B Office Action response, applicant had this to say about the mark TREASURE ISLAND as used in connection with slot machines, as compared to the mark TREASURE ISLAND AT THE MIRAGE as used in connection with casino services:

> Applicant's mark is for use in conjunction with the casino services offered at Treasure Island. The mark in the cited application is for use in conjunction with goods, namely, coin operated amusement machines and poker machines. *Clearly, coin operated machines are much different than the services offered by the applicant under the TREASURE ISLAND AT THE MIRAGE mark, and consumers are unlikely to be confused given the difference between these goods and services.*

See Exhibit B at page 2 (emphasis added).

In this same response, defendant went on to state as follows:

> The examining attorney's assertion that the goods of the cited application are likely to be found in hotel/casinos, while true, is of no moment. Resort hotels are like small cities; they offer many hundreds of different products and services to guests. *However, it is fundamental that these guests understand that not all of the products used or sold within the hotel are manufactured by the hotel. It is not realistic to hypothesize that an amusement machine which is sold to a casino would appear to be manufactured by the casino, even if the brand name of the machine (which may not ever be visible to a player) were the same as the trade name of the casino.* Casino operators do not customarily manufacture machines, and manufacturers of machines do not operate casinos.
>
> Given the differences in the goods and services, and in the trade channels, it is clear that the mark noted by the examining attorney, even if it turned into a registered mark, would clearly not pose a likelihood of confusion with applicant's mark.

See Exhibit B at page 3 (emphasis added).

Defendant has completely, and predictably, changed its position 180 degrees relevant to whether or not slot machines bearing the mark TREASURE ISLAND are somehow related to casino services offered under the mark TREASURE ISLAND. Defendant absolutely represented to the Trademark Office that slot machines "are much different than the services offered by the

applicant under the TREASURE ISLAND AT THE MIRAGE mark", that "consumers are unlikely to be confused given the difference between these goods and services", and that "it is not realistic to hypothesize that an amusement machine which is sold to a casino would appear to be manufactured by the casino". Defendant specifically represented to the Trademark Office that there would be no likelihood of confusion as between the relevant goods and services.

Plaintiff is not contending that the statements made to the Patent and Trademark Office by Defendant during the prosecution of its application create some sort of estoppel. Such a position is not tenable. See International Wholesalers, Inc. v. Saxons Sandwich Shoppes, Inc., 170 U.S.P.Q. 107, 109 (T.T.A.B. 1971). Defendant's statements do, however, highlight, quite correctly, the clear-cut differences between slot machines and casino services.

Defendant cannot tack its predecessor in interest's use of the mark TREASURE ISLAND in connection with slot machines onto its use of the mark TREASURE ISLAND AT THE MIRAGE as used in connection with casino services. "[T]he tacking of the use of a mark for certain goods or services onto the use of the same mark for other goods or services - for purposes of obtaining or maintaining a registration – should be permitted only when the two sets of goods or services are 'substantially identical'". Big Blue Products, Inc. v. IBM, 19 U.S.P.Q. 2d 1072, 1075 (TTAB 1991). Here, there is no way that slot machines and casino services can be said to be "substantially identical".

Finally, Petitioner notes that while the TREASURE ISLAND AT THE MIRAGE mark is clearly, through Defendant's own admission, confusingly similar to Plaintiff's TREASURE ISLAND mark, the mark TREASURE ISLAND as used by Defendant on slot machines was not the "legal equivalent" of the TREASURE ISLAND AT THE MIRAGE mark for tacking purposes. As stated by this Board:

> A party seeking to "tack" its use of an earlier mark onto its use of a later mark for the same goods or services may do so only if the earlier and the later marks are legal equivalents, or are indistinguishable from one another. To meet the legal equivalents test, the marks must create the same commercial impression and cannot differ materially from one another. Thus, the fact that two marks may be confusingly similar does not necessarily mean that they are legal equivalents.

Pro-Cuts v. Schilz-Price Enters, Inc., 27 U.S.P.Q. 2d 1224, 1226-27 (T.T.A.B. 1993).

Here, the goods are not the "same", nor does the design mark as used on the slot machines convey the same commercial impression as the word mark at issue here.

Up until 1993, the *only* use of TREASURE ISLAND by Defendant or any entity connected with it was on slot machines. TIC never even announced the idea of a future casino to be known as TREASURE ISLAND to the public until October of 1991, nearly *two years* after Plaintiff had started using its TREASURE ISLAND mark. See Exhibit C which is an exhibit attached to the Rowland affidavit, submitted by Defendant in its brief. By Defendant's own admission, it was not until a year later, in 1992, that the mark was actually used in promoting and advertising the future casino. See Defendant's Opposition to Motion for Summary Judgment at 4.

Defendant's attempt to tack must be rejected by this Board. Defendant's dates of first use of the relevant mark are set forth in its registration, and post date Plaintiff's first use of the mark in connection with identical services by years.

B. Defendant's Exclusive Rights Discussion

Defendant spends much time contending, in effect, that the parties may have concurrent rights relevant to the TREASURE ISLAND mark. This argument completely misses the point and should be rejected by this Board.

This is, of course, a cancellation proceeding. As such, Plaintiff "may prevail upon a showing of priority in use of a confusingly similar designation *in any geographic area of the United States*." Real Property Management, Inc. v. Marina Bay Hotel, 221 U.S.P.Q. 1187, 1190 (T.T.A.B. 1984) (emphasis added). The issue is not wrapped-up in Defendant's Nevada State Registration, it is not wrapped-up in Plaintiff's State Registration, and it is not wrapped-up in whether Defendant used the mark TREASURE ISLAND on slot machines. Rather, the issue is, plain and simply, did Plaintiff use its TREASURE ISLAND mark in connection with casino services before Defendant used the TREASURE ISLAND AT THE MIRAGE mark in connection with casino services? The evidence clearly and indisputably answers this question: Yes.

At this juncture, Plaintiff also notes that Defendant criticizes Prairie Island's State Registration while simultaneously attempting to lull this Board into believing that the State Registration is the only evidence which Prairie Island has submitted relevant to its date of first use of the TREASURE ISLAND mark. First off, in addition to the State Registration on the TREASURE ISLAND mark, Prairie Island has submitted evidence establishing its first use of the mark TREASURE ISLAND as of January of 1990. See those Exhibits designated C and D, submitted with Plaintiff's main brief. This evidence is completely ignored by Defendant. Defendant does, however, admit at page 3 of its brief that:

> In January 1990 Prairie Island changed its name from Prairie Island Bingo and began using various marks such as TREASURE ISLAND BINGO, TREASURE ISLAND BINGO AND CASINO, and TREASURE ISLAND CASINO BINGO in relation to its property in Red Wing, Minnesota.

As for the Minnesota State Registration (Exhibit E to Plaintiff's main brief) in spite of Defendant's comments to the contrary, this document is further solid evidence of Prairie Island's first use of the TREASURE ISLAND mark in 1990. In Minnesota, applicants for State

trademark and service mark registrations go through a registration process which is virtually identical to that undertaken by the United States Patent and Trademark Office. See Minn. Stats. 333.01 et. seq.

TIC's entire analysis geared toward bringing down Prairie Island's Minnesota Registration is significant not for what is present in it, but rather for what is lacking. Not once does Defendant attempt to actually attack the registration on substantive grounds. That is, Defendant never calls the accuracy and validity of the registration into question. Nor could it. The TREASURE ISLAND mark, after a Lanham Act type analysis by the Minnesota Secretary of States Office, properly issued to Prairie Island.

Next, TIC attempts to convince this Board that somehow Federal preemption of State rights plays into the formula. This argument, of course, is merely meant to distract this Board away from what, given the present status of this situation, is the only issue present: whether Prairie Island has a priority of use over Treasure Island Corp.

TIC's final argument is based on the theory that Plaintiff is somehow responsible for the likelihood of confusion present because, for example, it "stopped clearly identifying its location to the public as being Red Wing, Minnesota". See Defendant's Brief at 18. Plaintiff was under no requirement whatsoever to "identify its location to the public as being in Red Wing, Minnesota". Plaintiff is the senior user of the TREASURE ISLAND mark. Plaintiff cannot be somehow blamed for simply referring to its casino under the service mark it has used since 1990: TREASURE ISLAND. Additionally, Defendant's discussion deals only with Plaintiff's hotel facility.

As for Defendant's discussion of Plaintiff's promotion which entailed, as a prize, a trip to Treasure Island Las Vegas, contrary to Defendant's statements there was no "affiliation" inferred

as between the properties. The promotion clearly sets forth that the properties are distinct, one from the other. Plaintiff in no way, shape, or form attempted to affiliate itself with the Las Vegas property in the noted promotion. Furthermore, only those individuals who were members of Plaintiff's "ISLAND PASSPORT CLUB", and therefore intimately familiar with Plaintiff's casino, received the piece brought into issue by Defendant.

Finally, with regard to the issue of actual confusion, Plaintiff notes Defendant's assertion that no such confusion started until the 1996 time frame. Contrary to Defendant's assertions, it was at this time that Plaintiff began *documenting* the continuous and ongoing actual confusion. The confusion has been occurring, basically, for as long as Defendant has been in existence.

III. CONCLUSION

For all of the above-stated reasons, Plaintiff respectfully contends that its Motion for Summary Judgment should be granted in its entirety.

Respectfully submitted,

Dated: May 5, 2005

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Prairie Island Indian Community,
a Federally Recognized Indian Tribe

UNITED STATES PATENT AND TRADEMARK OFFICE

TRADEMARK TRIAL AND APPEAL BOARD

COPY

PRAIRIE ISLAND INDIAN COMMUNITY,
Petitioner,
v.
TREASURE ISLAND CORPORATION,
Respondent.

Reg. Nos. 1,949,380; 1,955,279; 2,010,396; 2,176,004; 1,984,421; 2,024,221; 2,019,481; 1,918,033; 1,941,475; 1,966,090; 1,903,619; 1,943,123; 1,949,379; 1,985,968; 2,040,756; 2,040,770; 1,981,369

Cancellation Nos. 28,126; 28,127; 28,130; 28,133; 28,145; 28,155; 28,199; 28,248; 28,280; 28,294; 28,314; 28,319; 28,325; 28,342; 28,379; 28,171; 28,174

DEPOSITION OF MARK RUSSELL

Taken at the Law Offices of Quirk & Tratos
3773 Howard Hughes Parkway, Suite 500 North
Las Vegas, Nevada

On Wednesday, June 23, 1999
At 9:00 a.m.

Reported by: MONIKA C. COYLE
NV CCR No. 523
CA CSR No. 4254

EXHIBIT A

A. It was used by GNLV Corp.

Q. You don't have idea when this was used by GNLV Corp.?

A. Not the date.

Q. The year?

A. They were in use when I was working there, so that was -- some time between '86 and '89 they were in use.

Q. Okay. Do you know what the term "slot merchandising services" means?

A. Again, it would depend on the context. If you're talking about on a -- which I have seen a filing with the Secretary of State, since I signed that form, my recollection is that that was the -- at the time, the way the marketing or the way the registration was set up, the State of Nevada would provide a list of categories.

And my recollection is that that was the closest category that we could -- we could sign up under that would approximate what our intention was in developing these, what we term, proprietary slot games, slot machines. The intention was to use it for slot machines for marketing of slot tournaments, marketing to our customers.

And then possibly, depending on the

success or not of the game and the response we got from our customers, we could then go into, you know, tangential items. I don't know if we ever did that with Treasure Island or not, but T-shirts and knickknacks, things of that nature.

But the -- what it was -- what the intention was, was that it was going to be a slot machine and slot marketing, you know, system that we could market to the public.

Q. Was that undertaken to be done?

A. Pardon me?

Q. Was that undertaken to be done? You said that was the intention.

A. Well, to the best of my knowledge, that's what we did. We developed designs for what's called belly glass and other things to dress up the slot machines so that they would be identified -- or they would be different from other slot imagines. And they were, in fact, placed on the gaming floor at the Golden Nugget, and they were used at the Golden Nugget.

Beyond that, I really don't know the extent of, you know, the use of the name or the use of marketing efforts or the use of any developments of any subsidiary merchandising.

TM

TRADEMARK

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Treasure Island Corp.
Serial No.	:	74/417,687
Filed	:	July 23, 1993
Mark	:	TREASURE ISLAND AT THE MIRAGE
Examining Attorney	:	J. Martin
Law Office	:	12

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231, on

3-25-94
(Date)

Jason Ames
Jason Ames

RESPONSE TO OFFICE ACTION

Hon. Commissioner
of Patents and Trademarks
Washington, D.C. 20231

Dear Sir:

This paper is being filed in response to the Office Action mailed January 26, 1994. By the Office Action, the Examining Attorney refused registration of the Applicant's mark under Section 2(d).

In particular, the Examining Attorney refused registration of the present application over U.S. Registration 1,469,460 for the mark TREASURE ISLAND HOTEL & CASINO ST. MAARTEN, N.A.

Applicant respectfully traverses this refusal to register the present mark. In particular, a Section 8 affidavit was required to be filed by December 15, 1993, in order to prevent the cited registration from being canceled. As of February 15, 1994, the Patent and Trademark Office had no record that such an affidavit

EXHIBIT
B

had been filed, however. Therefore, the cited registration is not an obstacle to the registration of Applicant's mark.

The Examining Attorney also cited pending application Serial No. 74/249,688, stating that this application is for a mark which, if the application matures into a registration, would be confusingly similar to the Applicant's mark.

Even if the mark which is the subject of the cited application matured into a registered mark, it would not pose a likelihood of confusion with Applicant's mark. Applicant is the owner and operator of the world-famous TREASURE ISLAND hotel, which is one of the largest hotels in the world. Further, Applicant's mark, TREASURE ISLAND AT THE MIRAGE denotes the location of this famous hotel adjacent to the Mirage, another world famous hotel owned by the parent company of the Applicant.

Applicant's mark is for use in conjunction with the casino services offered at Treasure Island. The mark in the cited application is for use in conjunction with goods, namely, coin-operated amusement machines and poker machines. Clearly, coin-operated machines are much different than the services offered by the Applicant under the TREASURE ISLAND AT THE MIRAGE mark, and consumers are unlikely to be confused given the difference between these goods and services.

Not only is there no likelihood of confusion because of the substantial difference in the products recited in the cited application and Applicant's services, but the differences in types

of consumers and channels of distribution also make confusion unlikely. The machines of the cited mark are very specialized; indeed, gaming machines can only be bought by purchasers who are already licensed by state gaming boards to operate these machines. These buyers are very sophisticated, and are much different than the average consumer, who is precluded by law from purchasing gaming equipment. On the other hand, Applicant offers casino services. These services are available to the consuming public, a group much different than the purchasers of gaming machines.

The Examining Attorney's assertion that the goods of the cited application are likely to be found in hotel/casinos, while true, is of no moment. Resort hotels are like small cities; they offer many hundreds of different products and services to guests. However, it is fundamental that these guests understand that not all of the products used or sold within the hotel are manufactured by the hotel. It is not realistic to hypothesize that an amusement machine which is sold to a casino would appear to be manufactured by the casino, even if the brand name of the machine (which may not ever be visible to a player) were the same as the trade name of the casino. Casino operators do not customarily manufacture machines, and manufacturers of machines do not operate casinos.

Given the differences in the goods and services, and in the trade channels, it is clear that the mark noted by the Examining Attorney, even if it turned into a registered mark, would clearly not pose a likelihood of confusion with Applicant's mark.

Mark : TREASURE ISLAND AT THE MIRAGE
Serial No. : 74/417,687

Applicant respectfully requests that the Examining Attorney allow Applicant's application and publish Applicant's mark for opposition. The application cited by the Examining Attorney has been pending for over two years, and apparently has been suspended. It is not fair to Applicant to hold up registration of this important mark over a suspended application. Accordingly, prompt disposition of this case is respectfully requested.

If there are any issues remaining which could possibly be resolved by phone, the Examining Attorney is invited to telephone Applicant's counsel at the number listed below.

Respectfully submitted,

QUIRK & TRATOS

Dated: 3/24/99

By: _____

Edward J. Quirk
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RSW-2294

"It will be a theme destination resort," he said. "We plan to bring the same level of imagination to this project that has characterized our work in the past."

Los Angeles Times

EXHIBIT C

October 30, 1991, Wednesday, Home Edition

SECTION: Business; Part D; Page 2; Column 3; Financial Desk

LENGTH: 571 words

HEADLINE: MIRAGE RESORTS PLANS FAMILY HOTEL IN VEGAS; GAMING: THE $300-MILLION TREASURE ISLAND COMPLEX IS EXPECTED TO INTENSIFY COMPETITION IN NEVADA'S BIGGEST ENTERTAINMENT OASIS.

BYLINE: By GEORGE WHITE, TIMES STAFF WRITER

BODY:
Mirage Resorts Inc. said Tuesday that it will build a $300-million family oriented themed resort in Las Vegas, escalating the fight for family business in the Nevada gaming and adult entertainment oasis.

The Las Vegas-based company, which owns the Golden Nugget casinos in Las Vegas and Laughlin, Nev., said its latest mega-casino -- to be called Treasure Island -- will have 3,000 guest rooms and will be located adjacent to the Mirage, the firm's flagship casino and resort.

The new resort is expected to open in mid-1994, **Mirage Resorts** said.

The company joins a long list of gaming firms entering the burgeoning family entertainment market in a city once viewed as an adults-only vacation spot. Circus Circus Enterprises Inc. in June, 1990, opened the Excalibur, a 4,000-room hotel and casino that has a medieval theme and offers substantial non-gaming entertainment. Circus Circus is expected to announce soon that it plans to build yet another property.

In addition, MGM Grand Inc., which is controlled by Beverly Hills investor Kirk Kerkorian, this month began construction on a $600-million, 112-acre complex in Las Vegas that will include a 5,000-room hotel and a theme park.

The **Mirage Resorts** announcement is another sign of changing times in Las Vegas, said Manny Cortez, executive director of Las Vegas Convention and Visitors Authority.

"Because of the proliferation of gaming around the country, the local casinos have decided that they can survive only by expanding and diversifying to attract a broader (spectrum) of people," Cortez said.

However, the building boom is expected to create a competitive shakeout in Las Vegas. The city has about 77,000 hotel rooms, a 20% increase over the past two years. With just the announced expansion plans, Las Vegas would have an additional

the great benefit of our shareholders and patrons."

Wynn was named president and chairman of the board of Golden Nugget Inc. in 1973. He transformed the small downtown casino into an elegant resort/hotel.

Wynn oversaw the design and construction of the Golden Nugget Casino and Hotel in Atlantic City, N.J. in 1980. Although it was the smallest casino in the city, it quickly became the most profitable and dominated the market. The property was sold to Bally Manufacturing Corp. in 1987.

Wynn and Golden Nugget Inc.'s most recent project is The Mirage, a destination resort with a tropical theme which has captured the imagination of visitors to Las Vegas. The mirage has set all-time industry records for gaming and non-gaming revenues and is considered an unqualifed success by industry analysts.

Forbes

October 29, 1990

SECTION: PERSONAL AFFAIRS; Pg. 146

LENGTH: 862 words

HEADLINE: Personal links

BYLINE: By Evan; McGlinn; Edited by William G. Flanagan

HIGHLIGHT:
Putting your own golf course in your backyard is one way of avoiding the hassles of waiting to tee off.

BODY:
SHOULD PRESIDENT GEORGE BUSH feel the sudden urge to get in a quick game of golf whenever he's in California, he need merely pop over to his friend Walter Annenberg's 205-acre Sunnylands estate in Rancho Mirage. Annenberg has his own private 18-hole course at Sunnylands. (He also has a 3-holer at his East Coast home in Wynnewood, Pa., on Philadelphia's Main Line.)

Closer to the White House, the President could drop in for a round at John Kluge's house. Kluge doesn't play much golf himself, but he does have an 18-hole personal course on his 10,000-acre Albemarle estate in Charlottesville, Va. The 6,084-yard, par 70 course was designed by Arnold Palmer.

The half dozen or so personal 18-hole courses that exist around the U.S. are golfers' fantasies. Imagine never having to make a tee time or getting bogged down by a slow foursome or having to let others play through. Never having to replace divots. Taking ten minutes to line up a putt.

One could include in that fantasy list: Never having to pay a $ 100 greens fee. But in fact, of course, the costs of a personal course are astronomical. Leave aside the expense of the real estate needed (a professional-quality course requires at least 200 acres). Just the staff, equipment and maintenance involved can run $ 1 million a year (*see box*).

UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

Prairie Island Indian Community, a federally recognized Indian Tribe, Plaintiff, v. Treasure Island Corp., Defendant.	Opposition Nos. 91115866 and 91157981 Cancellation Nos. 92028126; 92028127; 92028130; 92028133; 92028145; 92028155; 92028171; 92028174; 92028199; 92028248; 92028280; 92028294; 92028314; 92028319; 92028325; 92028342; and 92028379 (as consolidated)

CERTIFICATE OF SERVICE

TRADEMARK TRIAL AND APPEAL BOARD
COMMISSIONER FOR TRADEMARKS
P.O. BOX 1451
ALEXANDRIA VA 22313-1451

I hereby certify that a true copy of the foregoing PETITIONER'S/OPPOSER'S REPLY BRIEF IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT, EXHIBITS A-C, LETTER, and CERTIFICATE OF MAILING VIA EXPRESS MAIL, were served on Treasure Island Corp., c/o R. Richard Costello, of Quirk & Tratos, 3773 Howard Hughes Parkway, Suite 500 North, Las Vegas, NV 89109, Attorney for Defendant, by first class mail, postage prepaid, on May 5, 2005.

Dated: May 5, 2005

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UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

Prairie Island Indian Community, a federally recognized Indian Tribe, Plaintiff, v. Treasure Island Corp., Defendant.	Opposition Nos. 91115866 and 91157981 Cancellation Nos. 92028126; 92028127; 92028130; 92028133; 92028145; 92028155; 92028171; 92028174; 92028199; 92028248; 92028280; 92028294; 92028314; 92028319; 92028325; 92028342; and 92028379 (as consolidated)

CERTIFICATE OF MAILING VIA EXPRESS MAIL

TRADEMARK TRIAL AND APPEAL BOARD
COMMISSIONER FOR TRADEMARKS
P.O. BOX 1451
ALEXANDRIA VA 22313-1451

Sir:

I hereby certify that the attached PETITIONER'S/OPPOSER'S REPLY BRIEF IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT, EXHIBITS A-C, LETTER and CERTIFICATE OF MAILING in connection with the above-identified matter is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to BOX TTAB, Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451, under Express Mail Label No. EV241979755US on May 5, 2005.

Date: May 5, 2005

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On Behalf of Eric O. Haugen
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